IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 23412 of 2004

Between:

1. U.G. Prakash, S/o late U.G. Karenna, R/o. D.No.

1/118-10, VS Fancy Stores, Yemmiganur, Kurnool District.

2. C.Md. Zikiria, S/o Kabhir Sab, R/o. D.No.1/118-11,

Soda Shop, Yemmiganur, Kurnool District.

3. K. Devendra, S/o K. Chinna Basanna, R/o. 1/118/12,

Watch Repair Shop, Yemmiganur, Kurnool District.

..... PETITIONERS

AND

1. Government of A.P., rep. by Secretary, MA&UD,

Municipal Administration & Urban Development,

Secretariat, Hyderabad.

2. The Commissioner, Yemmiganur Municipality,

Yemmiganur town, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in evicting the petitioners from shop Nos.1/118-10 to 1/118-12 situated at Yemmiganur Municipality, Kurnool District, in pursuance of the notices dt. Nil issued by the 2nd respondent, is illegal and in violation of Article 21 of Constitution of India and opposed to all cannons of law.

For the Petitioners: MR. P.SRINIVASULU, Advocate

For the Respondent No.1: GP FOR MUNCIPAL ADMN. & URBAN DEV.

For the Respondent No.2: Mr. K.M. Mahender Reddy, Standing Counsel for Yemmiganur Municipality

The Court at the stage of admission made the following :

ORDER:

Heard the learned counsel for the petitioners, the leaned Government Pleader for first respondent and the learned Standing Counsel for the second respondent-Municipality and with their consent the writ petition itself is finally disposed of at the stage of admission.

Questioning the action of the respondents in evicting the petitioners from shop Nos.1/118-10 to 1/118-12 situated at Yemmiganur Municipality, Kurnool District, in pursuance of the notices, dated Nil issued by the second respondent, as illegal and opposed to principles of law, the petitioners filed this writ petition.

Admittedly, the petitioners are encroachers. In pursuance of the orders of this Court in W.P. No.21414 of 2004, dated 23-11-2004 directing the second respondent to follow the due process of law in evicting the petitioners from the premises in question, the second respondent issued encroachment notices, dated 25-11-2004 to the petitioners, who submitted their explanations and after considering their explanations, the second respondent issued the impugned notices dated Nil under Sections 189 to 194 and 364 of A.P. Municipalities Act, 1965 directing the petitioners to evict from the premises in question within 24 hours.

Having regard to the fact that the petitioners being encroachers of the premises in question have no vested right to continue therein, and in view of the fact that the second respondent, after considering the explanations submitted by the petitioners to their encroachment notices, issued the impugned notices directing eviction of the petitioners from the premises in question, no exception can be taken to the action of the respondents in evicting the petitioners from the premises in question.

Accordingly, the writ petition is dismissed at the stage of admission. However, as the learned counsel for the petitioners submitted that some time may be granted to the petitioners to evict from the premises, three months time is granted from today to the petitioners and after expiry of the said period, the petitioners shall hand over the possession of the premises in question to the second respondent and remove the encroachments as directed in the impugned notices. Till such time, the respondents shall not take any steps for evicting the petitioners. No costs.

_____

N.V. RAMANA, J

Date: 15-12-2004

Svv

To

1. The Secretary, Government of A.P., Municipal Administration & Urban Development, Secretariat, Hyderabad.

2. The Commissioner, Yemmiganur Municipality, Yemmiganur town, Kurnool District.

3. Two CCs. to the Government Pleader for Municipal Administration and Urban Development, High Court buildings, A.P., Hyderabad (OUT).

4. Two CD copies.